

Serial No.: 10/015,636

Reply to Office Action of March 21, 2003

IN THE DRAWINGS

The attached sheets of drawings include new FIGS. 7 and 8. These new FIGS. do not add new matter to the above-referenced application. The changes being submitted will be explained in the Remarks Section of the document.

REMARKS

This Amendment is being submitted in response to the Office Action mailed on March 21, 2003. Claims 1-12 are pending in the application. Claims 1-5, 11 and 12 stand rejected and Claims 6-10 stand objected to. Applicants have cancelled Claim 1 without prejudice, submitted amendments to Claims 2-12, and added new Claims 13-25. Applicants note with appreciation the agreement reached on the newly submitted independent claims during a Personal Interview with the Examiner on May 30, 2003. Reconsideration of the above-referenced application is respectfully requested.

Interview Summary

Applicants thank the Examiner for the courtesy of an interview extended to the Applicants' representatives on May 30, 2003. During the interview, an agreement was reached on how modification of the newly proposed independent Claims 13 and 14 would overcome the anticipation rejection noted in the outstanding Office Action. The Examiner, Mr. Anatoly Vortman, indicated on the interview summary (form PTO 413) that "the differences between U.S. Patent No. 5,467,068 and the present invention have been discussed. The Applicants' representative suggested to introduce the new limitation "a quasi-adiabatic resister means" into the proposed independent claims, which would distinguish the claimed invention from the aforementioned prior art."

Objection To The Drawings And Claims

The drawings are objected to under 37 C.F.R. §1.83(a). The Examiner asserts that the elements “electrical insulators” recited in Claim 5, “condenser” recited in Claims 11 and 12, and “insulating layer” recited in Claim 12 must be shown.

In order to overcome the objections to the drawings, Applicants have herein submitted two new drawings, FIGS. 7 and 8, together with supporting text amended into the Specification. New FIG. 7 is similar to the existing FIG. 4 with the exception that it has been modified to now show “electrical insulators” as recited in the presently amended Claim 5. New FIG. 8, which is similar to the existing FIG. 2, illustrates the condenser, or capacitor, recited in Claims 11 and 12, including the “insulating layer” claimed in Claim 12. Applicants respectfully submit that no new subject matter has been introduced in the above-referenced application by the submission of these new figures. Support for the subject matter in the new figures is found in the original specification (see, for example, Specification, page 4, lines 16-23; page 5, lines 21-27; page 6, lines 1-6; and page 9, lines 6-16) as well as in the language of the original Claims 5, 11, and 12. Based on the foregoing remarks and the newly submitted FIGS. 7 and 8, Applicants respectfully request that the Examiner reconsider the objections to the drawings under 37 C.F.R. §1.83(a).

Claims 6-10 are objected to under 37 C.F.R. §1.75(c) as being in improper form because of multiple dependent claim. The amendments submitted herein have corrected the improper multiple claims according to MPEP §608.01(n). Applicants respectfully request the Examiner’s reconsideration of the objection to these claims under 37 C.F.R. §1.75(c).

Rejection Under 35 U.S.C. §102(b)

Claims 1 and 2 are rejected under 37 U.S.C. §102(b) as being anticipated by Field et al. (U.S. Patent No. 5,467,068, "hereinafter Field"). Claim 1 has been cancelled herein without prejudice, thus making its rejection moot. Claim 13 is a newly submitted independent claim that replaces Claim 1. Claim 2, which was originally dependent from Claim 1, now depends from Claim 13. As noted above, Claim 13 was the subject of discussion with the Examiner. An agreement has been reached that recitation of the limitation of "a quasi-adiabatic resistor means" would distinguish Claim 13 over Field. Independent Claim 13 now recites a quasi-adiabatic resistor means. Because each and every element recited in the new independent Claim 13 is not described, either expressly or inherently, in Field, Applicants respectfully submit that the rejection of dependent Claim 2 under 37 U.S.C. §102(b) should be withdrawn. Applicants respectfully request the Examiner to remove that rejection and to pass Claim 2 to issuance.

Rejection Under 35 U.S.C. §103(a)

Claims 11 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Field in view of Cheng et al. (U.S. Patent No. 6,355,534, hereinafter "Cheng"). As for the rejections of Claims 11 and 12, the Examiner acknowledges that Field does not disclose a first and second level conductors being electrodes of a condenser (capacitor) with switchable (tunable) capacity. The Examiner cited Cheng for the disclosure of a "variable tunable MEMS capacitor (condenser) (FIG. 1) having electrodes (14 and 18) separated by a dielectric, wherein one of the electrodes (18) is supported by the formable member (16).

Presently amended Claims 11 and 12 are now dependent from the new Claim 13. As noted above, Claim 13 is neither anticipated nor made obvious by Field. Since Cheng has been cited only to overcome the defect of Field by not teaching or disclosing a first and second level conductor being electrodes of a condenser, that reference does not remedy the deficiency of Field. Therefore, Claims 11 and 12, due to their dependence on Claim 13, are not made obvious by the combination of Cheng and Field. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of Claims 11 and 12 under 35 U.S.C. §103(a) and that those claims be passed to issuance.

Claims 3-5 are rejected under 35 U.S.C. §103(a) as being unpatentable over Field in view of Johnson et al. (U.S. Patent No. 5, 619,177, hereinafter "Johnson").

Regarding Claim 3, the Examiner acknowledges that Field does not disclose electrostatic holders. In addition, the Examiner cited Johnson as a prior art that "disclosed (FIGS. 4, 5) MEMS switching device having electrostatic holders (106, 116), (90, 94), and (92, 96) to hold the formable member (102) or (78, 80, 82) in position after it is switched and the electrical control current is cancelled."

Presently amended Claims 3-5 are now depended from newly submitted Claim 13. As already noted, Claim 13 includes limitations that are not taught by Field. In addition, Johnson, being cited only for the disclosure of a switching device having electrostatic holders, does not remedy the deficiency of Field in anticipating, or making obvious the invention recited on the presently amended Claim 13. For that reason, Applicants respectfully submit that the combination of Field and Johnson does not anticipate the invention recited in Claims 3-5 and respectfully request the Examiner to pass those three claims to issuance.

Claim 14 is a new independent claim containing, among other recited elements, the limitation of a "quasi-adiabatic resistor means." As previously noted, an agreement has also been reached with the Examiner during the Personal Interview that recitation of "a quasi-adiabatic resistor means" in the new independent Claim 14 distinguishes it from Field. Therefore, new Claims 15-25 are allowable, among other reasons, because they depend from Claim 14. Applicants respectfully request that Claims 14-25 be passed to issuance.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is in condition for formal Allowance. A Notice of Allowance for Claims 1-25 is earnestly solicited.

Finally, the attention of the Patent Office is directed to the change of address of Applicants' representative, effective January 6, 2003:

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Please direct all future communications to this new address.

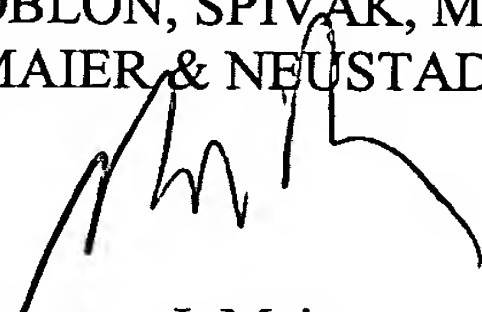
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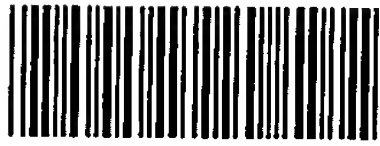
Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.

Respectfully submitted,

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